AUSA KAB

FILED
JUN 11 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA	) Magistrate No. '08 MJ 8526
Plaintiff,	) COMPLAINT FOR VIOLATION OF:
v.	) Title 18 U.S.C. § 3144 F.R.Crim.P. [Material Witness]
Jorge ORTIZ-Gonzalez	)
Material Witness.	) **RELATED TO 08MJ8509**

The undersigned complainant being duly sworn states:

That on or about June 5, 2008, within the Southern District of California, material witness, Jorge ORTIZ-Gonzalez did witness and observe defendant Jose Baudilo GASTELUM transport into the United States six undocumented aliens, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii). A complaint number 08MJ8509, entitled United States v. Jose Baudilo GASTELUM was issued on June 6, 2008.

The Complainant further alleges that the material witness, Jose Baudilo GASTELUM, is a citizen and native of Mexico with no legal

//

//

right to remain in the United States, and have no apparent means of support or family ties. Therefore, the above-referenced material witness is a material witness under Title 18, United States Code, Section 3144.

This complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

DATED: June 11, 2008.

U. S. BORDER PATROL AGENT

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 11TH DAY OF JUNE, 2008.

JAN M. ADLER
UNITED STATES MAGISTRATE JUDGE

Material Witness
Jose ORTIZ-Gonzalez

STATEMENT OF FACTS

1. I am a Senior Patrol Agent with the United States Border Patrol, assigned to the El Centro Sector Prosecutions Unit. This affidavit is made in support of a material witness complaint, pursuant to Title 18, United States Code, Section 3144, for Jose ORTIZ-Gonzalez. This application seeks the Witness' detention so that his testimony may be secured for trial in the Southern District of California.

2. A complaint, number 08MJ8509, entitled United States v. Jose Baudilo GASTELUM was issued on June 6, 2008, for violations of Title 8, United States Code, Section 1324, Transportation of Illegal Aliens within the Southern District of California.

3. On June 5th of 2008, Border Patrol Agents of the El Centro Sector observed GASTELUM as he attempted to smuggle six illegal aliens for financial gain. GASTELUM was subsequently apprehended by agents for his role in the smuggling scheme.

4. Agents observed GASTELUM driving a 1992 white Honda Accord. Agents attempted to stop the Honda, but GASTELUM failed to yield to the agents. A controlled tire deflation device was successfully deployed on the Honda, however, GASTELUM still failed to yield to agents. After the Honda finally stopped, GASTELUM ran from the Honda in an attempt to abscond. Agents were able to apprehend GASTELUM.

5. Jose ORTIZ-Gonzalez was one of the occupants of the Honda and after questioning him it was determined that he and the others in the

Honda are all citizens of Mexico illegally in the United States. ORTIZ and the others were placed under arrest.

6. At the station, ORTIZ was questioned about the incident and stated GASTELUM was the driver of the Honda. ORTIZ stated GASTELUM knew Border Patrol was following them and GASTELUM continued to drive until he stopped the Honda and ran from it.

7. Based on the foregoing, I respectfully submit testimony from the Material Witness at trial will be material.

8. In addition, it is impractical to secure the presence of Jose ORTIZ-Gonzalez by subpoena for the following reasons:

a. Jose ORTIZ-Gonzalez is not a citizen of the United States and currently resides in Mexico with his family;

b. Jose ORTIZ-Gonzalez does not possess any immigration documentation to be, reside or live in the United States lawfully.

c. Jose ORTIZ-Gonzalez has an incentive to avoid coming to the United States and appearing in court as a government witness as he was trying to illegally enter the United States without properly filing for admittance.

9. I believe that, based on the facts set out above, there is no condition or combination of conditions that would reasonably assure the appearance of Jose ORTIZ-Gonzalez. Accordingly, I respectfully request that a complaint be issued for Jose ORTIZ-Gonzalez.

WHEREFORE your complainant prays that the Court issue a material witness complaint for Jose ORTIZ-Gonzalez and he be imprisoned or bailed as the case may be.